

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference GEE1P-H59	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/10283	International filing date (day/month/year) 02 April 2004 (02.04.2004)	Priority date (day/month/year) 04 April 2003 (04.04.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): A63B 63/00; F41B 03/02 and US Cl.: 473/451, 422 ;124/20.1, 41.1, 81, 25, 26; 24/42			
Applicant GEE, DONALD			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 16 September 2004 (16.09.2004)		Date of completion of this report 14 March 2005 (14.03.2005)	
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230		Authorized officer <i>Sharon N. Greene for</i> Greg Vidovich Telephone No. 703-308-1148	

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/10283

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
☐ publication of the international application (under Rule 12.4)
☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☒ the international application as originally filed/furnished

☒ the description:

pages 1-10 as originally filed/furnished

pages* NONE received by this Authority on _____

pages* NONE received by this Authority on _____

☒ the claims:

pages 11-14 as originally filed/furnished

pages* NONE as amended (together with any statement) under Article 19

pages* NONE received by this Authority on _____

pages* NONE received by this Authority on _____

☒ the drawings:

pages 1/4-4/4 as originally filed/furnished

pages* NONE received by this Authority on _____

pages* NONE received by this Authority on _____

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:

☒ the description, pages None

☒ the claims, Nos. None

☒ the drawings, sheets/figs None

☒ the sequence listing (*specify*): None

☒ any table(s) related to the sequence listing (*specify*): None

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/10283**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims <u>2-18</u>	YES
	Claims <u>1</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>2-18</u>	NO
Industrial Applicability (IA)	Claims <u>1-18</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)

Claim 1 lacks novelty under PCT Article 33(2) as being anticipated by Marchant (GB 2 315 030 A). Marchant discloses a game device consisting of a slingshot having a handle (14); a launcher frame (10,12) and a pair of elastized bands (16,18), where the launcher pouch (20) defined by a ball receptacle having a front opening and a grasping tab (22) extending from a side opposite to the front opening

Claim 7 lacks an inventive step under PCT Article 33(3) as being obvious over Marchant. Claim 7 directly corresponds to claim 1 in terms of method features and additionally contains the feature of a compressible ball, which is common practice in the field of production of ball projecting devices (See US A-3802409 1:11-16). It is known for a person of ordinary skill in the art that almost every ball used in sports is compressible.

Claim 13 is unclear (guidelines IV-III-4.5(a)) since the term "about" is used. Also, a parameter per se cannot justify an inventive step without any unexpected or surprising effect.

Claim 2 lacks an inventive step under PCT Article 33(3) as being obvious over Marchant. The subject matter of claim 2 merely relates to the design and choice of known materials without any unexpected or surprising effect.

Claims 3-6,8-12 and 14-18 lack an inventive step under PCT Article 33(3) as being obvious over Marchant. Dependent claims 3-6,8-12, and 14-18 do not contain any features which in combination with the features of any claim to which they refer (See cited references Marchant (GB 2 315 030 A) and Mike (3802409)). The apertures formed in the outer surfaces of the ball, introduced by dependent claims 11 and 12 are well known in the field of production of such balls in order to change the characteristics of ball flight.

Claims 1-18 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

NEW CITATIONS